

# LITIGATION ROSTER

## SPECIAL TAXES

SEPTEMBER 2011

**Special Taxes**  
**SEPTEMBER 2011**

**NEW CASES**

Case Name

Court/Case Number

None

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**CLOSED CASES**

Case Name

Court/Case Number

None

Please refer to the case roster for more detail regarding new and closed cases

**Special Taxes**  
LITIGATION ROSTER  
SEPTEMBER 2011

**BRAR & CHAHAL INC. v. CA State Board of Equalization**

Fresno County Superior Court Case No. 11CECG02688 DJK

Filed – 08/04/11

*Plaintiffs' Counsel*

Clark L. Rountree

Attorney at Law

*BOE's Counsel*

Steven J. Green

*BOE Attorney*

Wendy Vierra

Issue(s): The issue in this case is whether or not tobacco products were seized illegally under the authority of [Business & Professions Code section 22974 and 22974.3](#).

Audit/Tax Period: None

Amount: Unspecified

Status: On August 8, 2011, the judge denied Petitioner's ExParte Application for Stay of the Suspension of License to Sell Tobacco. Plaintiff also filed a Petition for Preliminary Writ of Mandate but has not served SBE. Awaiting proper service.

**CA FARM BUREAU FEDERATION I, et al. v. CA State Water Resources Control Board, et al.**

California Supreme Court Case No. S150518

Filed – 04/13/04

Sacramento Superior Court Case No. 04CS00473

Court of Appeal, Third Appellate District Case No. C050289

*Plaintiffs' Counsel*

David A. Battaglia, Alan N. Bick

Gibson, Dunn & Crutcher LLP

*BOE's Counsel*

Molly Mosley

*BOE Attorney*

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2003-2004

Amount: Unspecified

Status: The California Supreme Court issued its decision on January 31, 2011, affirming the Court of Appeal's judgment holding that the fee statutes at issue are facially constitutional and reversing the Court of Appeal's determination that the statutes and their implementing regulations are unconstitutional as applied. The case is remanded to the Court of Appeal to remand to the trial court for proceedings consistent with the opinion. Petitions for Rehearing filed. On April 20, 2011, the Court denied the petitions for rehearing, and modified its opinion. Remittitur issued May 12, 2011. At the Status Conference on July 29, 2011, the judge ordered discovery in the Water Rights cases. As instructed by the Court at the July 29, 2011, case management conference, on September 30, 2011, the Attorney General's Office filed its Initial Joint Stipulation outlining the parties' briefing schedule. A Status Conference is scheduled for October 21, 2011.

**CA FARM BUREAU FEDERATION II, et al. v. CA State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 05CS00538

Filed – 01/13/05

Plaintiffs' Counsel

David A. Battaglia

Gibson, Dunn & Crutcher LLP

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2004-2005

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

**CA FARM BUREAU FEDERATION III, et al. v. CA State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 06CS00651

Filed – 04/26/06

Plaintiffs' Counsel

David A. Battaglia

Gibson, Dunn & Crutcher LLP

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2005-2006

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

**CA FARM BUREAU FEDERATION IV, et al. v. CA State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 07CS00485

Filed – 02/11/08

Plaintiffs' Counsel

David A. Battaglia, Alan N. Bick

Gibson, Dunn & Crutcher LLP

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2006-2007; 2007-2008

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

**CA FARM BUREAU FEDERATION V, et al. v. CA State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 34-2009-80000231

Filed – 05/07/09

Plaintiffs' Counsel

David A. Battaglia, Alan N. Bick

Gibson, Dunn & Crutcher LLP

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2009-2009

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, Case No. S150518.

**CA FARM BUREAU FEDERATION VI, et al. v. CA State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 34-2011-80000880

Filed – 06/10/11

Plaintiffs' Counsel

Nancy McDonough

Attorney at Law

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2009-2010, 2010-2011

Amount: Unspecified

Status: On July 1, 2011, Plaintiff dismissed Jerome E. Horton as Chairperson of the Board of Equalization. This case is stayed pending the outcome of the stipulation pending the outcome of the consolidated cases – see *Northern California Water Association, et al. v. State Water Resources Control Board, et al.*

**DIAGEO-GUINNESS USA, INC., et al. v. California State Board of Equalization**

Sacramento Superior Court Case No. 34-2008-00013031-CU-JR-GDS

Filed – 06/12/08

Court of Appeal, Third Appellate District No. C061227

Plaintiff's Counsel

Elizabeth Mann, Jeffrey N. Goldberg

McDermot, Will & Emery LLP

BOE's Counsel

Steven J. Green

BOE Attorney

Jeffrey Graybill

Issue(s): (1) Whether BOE has the authority to adopt new Alcoholic Beverage Tax Regulations [2558](#), [2559](#), [2559.1](#), [2559.3](#) and [2559.5](#) ("Regulations") recently approved by the Office of Administrative Law on June 10, 2008; (2) whether the Regulations are consistent with governing law; (3) whether BOE is required to follow federal regulations in this area; (4) whether BOE failed to comply with the Administrative Procedures Act; and (5) whether the Regulations violate the Commerce Clause of the United States Constitution (Revenue and Taxation Code sections [32002](#), [32152](#), [32451](#) and Business and Professions Code sections [23004](#), [23005](#), [23006](#), [23007](#)).

Audit/Tax Period: None

Amount: \$0.00

Status: Judgment for BOE was entered February 19, 2009. Plaintiff's Notice of Appeal was filed on February 27, 2009. This case has been fully briefed in the Court of Appeal and is awaiting scheduling of oral argument.

**FARAH SMOKE SHOP v. California State Board of Equalization**

San Francisco Superior Court Case No. CPF-11-511344

Plaintiffs' Counsel

Robert G. Cummings

Law Office of Robert G. Cummings

Filed – 06/03/11

BOE's Counsel

Joyce Hee

BOE Attorney

Sharon Silva

Issue(s): The issue in this case is whether or not plaintiff was properly suspended for purchasing cigarettes from an unlicensed person per B & P Code section 22980.1. ([Bus. & Prof. Code section 22974](#) and [22980.1](#); Title 17 Cal. Code Regs. 4606.

Audit/Tax Period: None

Amount: \$0.00

Status: The Court granted Petitioner's Ex Parte Application for Temporary Restraining Order for Stay of Suspension of Cigarette and Tobacco License; the Order was entered June 8, 2011. The 30-day suspension was stayed pending hearing and decision on August 9, 2011. The Court issued a tentative decision, finding that the Petitioner had not properly filed the administrative record or proved its case, and dismissed the writ and dissolved the temporary restraining order; however, the Court agreed to defer on the ruling, and continued the matter to August 18, 2011 for a hearing as to whether Petitioner could show good cause for its failure to lodge the administrative record. At the hearing, the judge denied the petition for writ of administrative mandamus finding that the Petitioner did not act expeditiously to provide the administrative record or show why relief should be granted. The temporary stay of SBE's suspension of Petitioner's license was lifted. The suspension was reinstated on August 19, 2011.

**GREYHOUND LINES, INC. v. California Board of Equalization**

Sacramento Superior Court Case No. 07CS00054

Plaintiff's Counsel

William D. Taylor, Eli R. Makus

Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP

Filed – 01/12/07

BOE's Counsel

Bob Asperger

BOE Attorney

Renee Carter

Issue(s): Whether consumption of diesel fuel used to operate air conditioning systems on buses was exempt from the diesel fuel tax ([Revenue and Taxation Code section 60501\(a\)\(4\)\(A\)](#); [Regulation 1432](#)).

Audit/Tax Period: 08/01/01-12/31/03; 01/01/04-06/30/05

Amount: \$295,583.04

Status: BOE's Answer to the Second Amended Complaint was filed February 1, 2010. On March 5, 2010, Greyhound agreed to remove its Demurrer to BOE's Answer to the Second Amended Complaint from the court's March 19, 2010 calendar. On September 23, 2011, Plaintiff Greyhound and Defendant SBE stipulated and agreed that the action against the defendant going to trial within five years of the date the action commenced, as stated in the code of [Civil Procedure section 583.310](#), would be extended for 24 months.

**MORNING STAR COMPANY v. The State Board of Equalization, et al.**

Sacramento Superior Court Case No. 34-2008-00005600-CU-MC-GDS

Court of Appeal, Third Appellate District No. C063437

Plaintiff's Counsel

Brian C. Leighton, Richard Todd Luoma

Attorneys at Law

Filed – 03/06/08

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Issue(s): Whether the requirement to pay fees into the Toxic Substances Control Account ([Health & Safety Code section 25205.6, subdivision \(c\)](#)) complies with the Administrative Procedure Act and due process.

Audit/Tax Period: 01/01/03-12/31/05

Amount: \$38,698.92

Status: Trial court judgment in favor of BOE was entered September 22, 2009. Plaintiff filed an appeal. The case was argued and submitted on March 14, 2011. On May 5, 2011, the Court of Appeal affirmed the trial court's judgment. Morning Star's Petition for Review was filed on June 15, 2011 and was granted by the CA Supreme Court on August 24, 2011, transferring the matter to the Court of Appeal with directions to vacate its decision and reconsider the cause in light of CA Farm Bureau Federation v. State Water Resources Control Board. On August 31, 2011, the Court of Appeal vacated its decision.

**NORTHERN CA WATER ASSOCIATION I, et al. v. State Water Resources Control Board, et al.**

California Superior Court Case No. S150518

Sacramento Superior Court Case No. 03CS01776

Court of Appeal, Third Appellate District: 03CS01776

Plaintiffs' Counsel

Stuart L. Somach, Daniel Kelly

Somach, Simmons & Dunn

Filed – 12/17/03

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2003-2004

Amount: Unspecified

Status: The California Supreme Court issued its decision on January 31, 2011, affirming the Court of Appeal's judgment holding that the fee statutes at issue are facially constitutional and reversing the Court of Appeal's determination that the statutes and their implementing regulations are unconstitutional as applied. The case is remanded to the Court of Appeal to remand to the trial court for proceedings consistent with the opinion. Petitions for Rehearing filed. On April 20, 2011, the Court denied the petitions for rehearing, and modified its opinion. Remittitur issued May 12, 2011. At the Status Conference on July 29, 2011, the judge ordered discovery in the Water Rights cases. As instructed by the Court at the July 29, 2011, case management conference, on September 30, 2011, the Attorney General's Office filed its Initial Joint Stipulation outlining the parties' briefing schedule. A Status Conference is scheduled for October 21, 2011.

**NORTHERN CA WATER ASSOCIATION II, et al. v. State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 04CS01467

Filed – 10/29/04

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Plaintiffs' Counsel

Stuart L. Somach, Daniel Kelly

Somach, Simmons & Dunn

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2004-2005

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

**NORTHERN CA WATER ASSOCIATION III, et al. v. State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 05CS01488

Filed – 10/19/05

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Plaintiffs' Counsel

Stuart L. Somach, Daniel Kelly

Somach, Simmons & Dunn

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2005-2006

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

**NORTHERN CA WATER ASSOCIATION IV, et al. v. State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 06CS01517

Filed – 10/18/06

BOE's Counsel

Molly Mosley

BOE Attorney

Renee Carter

Plaintiffs' Counsel

Stuart L. Somach, Daniel Kelly

Somach, Simmons & Dunn

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2006-2007

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.



**NORTHERN CA WATER ASSOCIATION V, et al. v. State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 34-2008-00003004-CU-WM-GDS

Filed – 02/07/08

*Plaintiffs' Counsel*

Stuart L. Somach, Daniel Kelly  
Somach, Simmons & Dunn

*BOE's Counsel*

Molly Mosley  
*BOE Attorney*  
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2007-2008

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

**NORTHERN CA WATER ASSOCIATION VI, et al. v. State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 34-2009-80000183

Filed – 03/05/09

*Plaintiffs' Counsel*

Stuart L. Somach, Daniel Kelly  
Somach, Simmons & Dunn

*BOE's Counsel*

Molly Mosley  
*BOE Attorney*  
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2008-2009

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

**NORTHERN CA WATER ASSOCIATION VII, et al. v. State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 34-2010-80000461

Filed – 03/04/2010

*Plaintiffs' Counsel*

Stuart L. Somach, Daniel Kelly  
Somach, Simmons & Dunn

*BOE's Counsel*

Molly Mosley  
*BOE Attorney*  
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2009-2010

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

**NORTHERN CA WATER ASSOCIATION VIII, et al. v. State Water Resources Control Board, et al.**

Sacramento Superior Court Case No. 34-2011- 80000828

Filed – 04/05/2011

Plaintiffs' Counsel

Stuart L. Somach, Daniel Kelly  
Somach, Simmons & Dunn

BOE's Counsel

Molly Mosley  
BOE Attorney  
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2010-2011

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

**PALO VERDE IRRIGATION DISTRICT v. State Water Resources Control Board, et al.**

Riverside Superior Court Case No. INC 043178

Filed – 05/28/04

Plaintiff's Counsel

David R. Saunders  
Clayson, Mann, Yaeger & Hansen

BOE's Counsel

Molly Mosley  
BOE Attorney  
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2003-2004

Amount: Unspecified

Status: This case is stayed pending the outcome of the consolidated cases (see *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.) On September 8, 2011, the Attorney General's Office filed a Case Management Statement advising the Palo Verde Court that related SWRCB water rights cases were calendared for a Case Management Conference on October 21, 2011, in Sacramento.

**PARMAR, ASHOK V., et al. v. California State Board of Equalization**

Los Angeles Superior Court Case No. BC379013

Court of Appeal, Second Appellate District No. B215789

Filed – 10/11/2007

Plaintiffs' Counsel

Marty Dakessian  
ReedSmith LLP

BOE's Counsel

Ron Ito  
BOE Attorney  
John Waid

Issue(s): Whether the BOE issued the Notice of Determination to the correct entity and whether plaintiff intentionally evaded payment of excise taxes as a distributor defined under [Revenue and Taxation Code sections 30001-30019](#).

Audit/Tax Period: 12/16/93-03/08/95

Amount: \$87,647.00

Status: Judgment in favor of plaintiffs was entered February 23, 2009. The case is on appeal, and is currently being briefed in the Court of Appeal. On June 14, 2011, the Second District Court of Appeal issued its

opinion resulting in a partial victory for the Board. The Remittitur, remanding the case back to the trial court, was issued August 18, 2011. On September 23, 2011, Plaintiff and Cross-Defendant Parmar's Ex Parte Application was denied to confirm assignment of the matter to Judge Jane Johnson in remanding the motion for attorney fees as set forth by the Court of Appeal. At the hearing, Judge Michael Johnson explained that the two judges would get together and discuss the case and decide if the former judge wants to keep the case for the purpose of the fees award. An order informing the parties of their decision will be issued.

**SAHAND ENTERPRISES, INC. v. CA State Board of Equalization**

Sacramento Superior Court Case No. 34-2011-00104904

Filed – 06/13/11

BOE's Counsel

Jane O'Donnell

BOE Attorney

Jeffrey Graybill

Plaintiffs' Counsel

Warren P. Felger

Felger & Associates

Issue(s): Whether the fees paid pursuant to the Underground Storage Tank Maintenance Fee Law were erroneously paid pursuant to Regulation 1213 ([Regulation 1213. Payment of Fee by Operator](#)).

Audit/Tax Period: None

Amount: \$37,072.53

Status: The BOE signed the Notice and Acknowledgment of Receipt on August 10, 2011, accepting service of the summons and complaint in the case. On September 9, 2011, the Board filed its demurrer challenging the legal sufficiency of the complaint on the grounds that there are no allegations of an overpayment of underground storage tank fees.

**SANTA CLARA, COUNTY OF, et al. v. State Board of Equalization of California**

San Francisco Superior Court Case No. CPF-06-506789

Filed – 11/15/06

BOE's Counsel

Steven J. Green

BOE Attorney

Kiren Chohan

Plaintiffs' Counsel

Louise H. Renne, K. Scott Dickey

Renne, Sloan, Holtzman, Sakai LLP

Issue(s): Whether the BOE is under a mandatory duty to tax flavored malt beverages as distilled spirits under [Revenue and Taxation Code section 32451](#).

Audit/Tax Period: None

Amount: Unspecified

Status: On June 2, 2009, the court granted Third Party Diageo-Guinness USA, Inc.'s Motion to Enforce Stay. The court ordered that the existing stay order, entered June 18, 2007, shall remain in effect until a Remittitur is filed and served by the clerk of the Court of Appeal in *Diageo-Guinness USA, Inc. v. California State Board of Equalization*, Case No. C061227, and that this stay order bars all discovery activity in the case.

**SHAITRIT, ASHER v. California State Board of Equalization**

San Diego Superior Court Case No. 37-2008-00094283

Court of Appeal, Fourth Appellate District Case No. D056858

Filed – 11/15/06

BOE's Counsel

Leslie Branman Smith

BOE Attorney

Renee Carter

Plaintiffs' Counsel

Asher Shaitrit

In Pro Per

Issue(s): The issue in this case is whether plaintiff, a licensed distributor of cigarettes, purchased and distributed unstamped cigarettes subject to the Cigarette and Tobacco Products Tax Law (Revenue and Taxation Code section [30000](#) et seq.).

Audit/Tax Period: 5/1/99 – 5/31/01

Amount: \$157,871.09

Status: Trial court judgment in favor of BOE. Plaintiff filed a Notice of Appeal on December 28, 2009. The case is currently being briefed in the Court of Appeal.

**ZARTOSHT INC. v. California Board of Equalization**

Sacramento Superior Court Case No. 34-2011-00106888

Plaintiffs' Counsel

Scott Souers

Attorney at Law

Filed – 07/15/11

BOE's Counsel

Molly Mosley

BOE Attorney

John Waid

Issue(s): The issue in this case is whether or not tobacco products were seized illegally under the authority of Business & Professions Code section 22974 ([Bus. & Prof. Code section 22974](#)).

Audit/Tax Period: None

Amount: \$788.42

Status: The Court has notified the Plaintiff that their Proofs of Service are incomplete and the Court will not file their documents. On August 26, 2011, the SBE filed a Motion to Reclassify the case as one of unlimited jurisdiction. The SBE also filed a Motion to Strike plaintiff's demand for a jury trial and its request for damages. At the September 29, 2011 hearing, the court granted both of SBE's motions, and ordered the plaintiff to file an Amended Complaint to be filed and served on or before October 11, 2011. The case has not been set for further proceedings at this time.

**SPECIAL TAXES  
CLOSED CASES  
LITIGATION ROSTER  
SEPTEMBER 2011**

No cases were closed during this period.

**DISCLAIMER**

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